

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA
(MARTINSBURG)**

STEVEN HILL
590 Tottenham Circle
Martinsburg, West Virginia 25404

Plaintiff

v.

THE UNITED STATES OF AMERICA
Serve On: Jeffrey Sessions, U.S. Atty. Gen.
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

AND

Serve On: William J. Powell, U.S. Attorney
for the Northern District of West Virginia
U.S. Courthouse & Federal Building
1125 Chapline Street, Suite 3000
Wheeling, West Virginia 26003

Defendant

* * * * *

COMPLAINT

The Plaintiff, by D. Michael Burke, Esquire and Burke, Schultz, Harman & Jenkinson, and Dennis F. O'Brien, Esquire, *pro hac vice*, and Dennis F. O'Brien, P.A., his attorneys, files suit against the Defendant and in support of same says:

1. The Plaintiff Steven Hill is a resident of Martinsburg, West Virginia.
2. The Defendant is The United States of America (hereinafter "USA").

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3. This lawsuit is an action for medical negligence brought pursuant to and in compliance of the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b)(1) and 2671, et seq., which place subject matter jurisdiction of tort claims against the USA in the Federal District Court.

4. Venue is proper in this District as the events giving rise to this claim took place within the District.

5. This case is commenced and prosecuted against the USA pursuant to and in compliance with Title 28 U.S.C. §§ 2671 – 2680, commonly referred to as the Federal Tort Claims Act (FTCA). The liability of the USA is predicated upon 28 U.S.C. §§ 1346(b)(1) and 2674 because the injuries sustained by the Plaintiff and the resulting damages, about which this Complaint is made, were proximately caused by the negligence (departures from the standard of care), wrongful acts and omissions of health care providers employed by a federally funded community health clinic.

6. The Plaintiff Steven Hill was a patient at the Shenandoah Community Health Center, which is part of Shenandoah Valley Medical System, Inc. (hereinafter “Shenandoah”). His treating healthcare provider in that system was Anthony Owunna, M.D.

7. At the time of the incident alleged herein, Anthony Owunna, M.D. was an employee of Shenandoah, which was an entity receiving federal grant money from the United States Public Health Services pursuant to 42 U.S.C. §§ 254(b) or 254(c).

Pursuant to 42 U.S.C. §§ 233(g) and (h), the U.S. Department of Health & Human Services (HHS), deemed Shenandoah and its employees eligible for malpractice coverage under the FTCA.

8. While healthcare providers are working within the scope of their employment at Shenandoah, the USA would be liable to the Plaintiff for their negligent acts and omissions to the same extent that a private person would be.

9. At all times pertinent, while the Plaintiff was a patient of Shenandoah and Dr. Owunna, Dr. Owunna and all other employees of Shenandoah were acting within the course of their employment.

10. Pursuant to 28 U.S.C. §§ 2672 and 2675(a), the Plaintiff's claim set forth herein was timely filed and presented administratively to the Defendant agency, the U.S. Department of Health & Human Services and a Form 95 was submitted on December 6, 2017. On April 11, 2018, the agency denied the claim. Plaintiff has complied with all jurisdictional prerequisite and conditions precedent to the commencement and prosecution of this claim.

11. Plaintiff Steven Hill was a patient of Dr. Owunna at Shenandoah. He suffered from clotting and was placed on Coumadin. In October 2015, he was scheduled for dental work with the Aspen Dental Clinic in Hagerstown, Maryland. The dentist there requested advice from Dr. Owunna about how to safely perform the dental work (cleaning) while the Plaintiff was on Coumadin. Dr. Owunna advised the dentist to have

Mr. Hill stop taking Coumadin for five (5) days prior to the dental work and to restart the same day of, after the procedures.

12. The Plaintiff followed the prescribed regimen. Shortly thereafter he developed pain and swelling in his left foot and returned to Shenandoah on October 14 and November 4, 2015. He complaints in his foot and leg continued and eventually he was admitted to Fairfax Inova Hospital in Virginia, where on December 21, 2015 his left leg was amputated, below the knee, due to clotting and thrombosis that developed during the time he was without anticoagulant protection.

13. Dr. Owunna and the other employees of Shenandoah held themselves out as possessing the requisite skill, knowledge, training and expertise to properly manage Steven Hill as a patient and treat his clotting disorder. Dr. Owunna and the other healthcare providers at Shenandoah breached the standard of care for healthcare providers under the same or similar circumstances by:

- a. discontinuing Coumadin for dental procedures;
- b. failing to timely diagnose and treat the progressive thrombotic issues he presented with in October and November 2015, leading to amputation of his left leg below the knee on December 21, 2015; and
- c. Dr. Owunna and the other healthcare providers at Shenandoah were negligent in other respects.

14. As a direct and proximate result of these departures from the standard of care, the Plaintiff was seriously injured and damaged, lost his left leg below the knee, incurred substantial medical expense, underwent multiple surgical procedures, lost time from his employment and usual pursuits, suffered significant physical pain and emotional injury, and was otherwise injured and damaged.

15. So that all of his injuries, losses and damages were as a result of the negligence of Shenandoah, Dr. Owunna, and the employees of Shenandoah.

WHEREFORE, the Plaintiff, Steven Hill, claims Five Million Dollars (\$5,000,000.00).

Dated:

/s/ D. Michael Burke

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/s/ Dennis F. O'Brien

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